



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Talco Inc.

File: B-235702

Date: August 23, 1989

DIGEST

Where offeror fails to furnish sufficient information in its proposal to determine its technical acceptability, an agency can reasonably conclude the offer is technically unacceptable and exclude it from the competitive range.

DECISION

Talco Inc. protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. N00174-89-R-0058, issued by the Naval Supply Systems Command (NSSC) for head caps.^{1/}

We deny the protest.

The agency states that because of the complex nature of the casting and machining process for head caps, the need for a high degree of quality control, and its history of prior technical difficulties associated with supplying this part, the solicitation required offerors to submit a technical proposal as well as a cost proposal. In regard to the technical proposal, section L203 of the RFP warned offerors that each proposal must be adequate on its face to demonstrate how it proposes to comply with the contract's specifications, since the agency may elect to award a contract without conducting discussions with each offeror. Although section L203 also advised offerors that offers which do not present sufficient information to permit complete technical evaluation may be rejected, Talco's offer did not contain a technical proposal; rather, it consisted only of a price for the head caps. As a result, NSSC concluded that Talco's offer was technically unacceptable

^{1/} A head cap is a large, heavy, cast and machined steel piece of hardware designed to attach to the forward part of a rocket.

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and excluded it from the competitive range. Four proposals out of 39 received were included in the competitive range.

Talco contends that its offer was improperly excluded from the competitive range because rather than eliminating its offer upon discovering that Talco had failed to submit a technical proposal, NSSC should have issued an amendment extending the RFP's closing date an additional 30 days so that Talco could furnish its technical proposal. In the alternative, Talco argues that the NSSC should have conducted discussions with Talco to permit the firm to cure the deficiency.

The evaluation of proposals and the resulting determination of whether an offeror is in the competitive range is within the discretion of the procuring agency since it is responsible for defining its own needs and the best methods of accommodating them. Western Graphtec, Inc., B-212971, May 14, 1984, 84-1 CPD ¶ 517. Therefore, we will examine an agency's evaluation only to ensure that it has a reasonable basis. HITCO, B-232093, Oct. 11, 1988, 88-2 CPD ¶ 337. Although the Federal Acquisition Regulation (FAR) provides that the competitive range must include all proposals that have a "reasonable chance of being selected for award" and that any doubt as to whether a proposal is in the competitive range should be resolved by inclusion, FAR § 15.609(a), a contracting agency is not required to permit an offeror to revise an unacceptable initial proposal where the deficiencies are so material that major revisions would be required to make the proposal acceptable. Id.

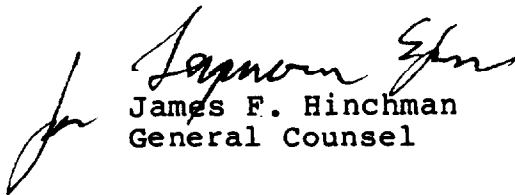
Here, the RFP required offerors to submit technical proposals adequate on their face to demonstrate how they propose to comply with the contract's specifications, since the agency may elect to award a contract without discussions with each offeror; Talco nevertheless failed to submit a technical proposal. As a result, the contracting officer concluded that Talco's offer was technically unacceptable and excluded it from the competitive range.

Since the agency's technical evaluation was dependent upon the information furnished in the technical proposals, it was clearly Talco's responsibility to submit a technical proposal that was adequately written. Marvin Eng'g Co., Inc., B-214889, July 3, 1984, 84-2 CPD ¶ 15. Where, as here, an offeror fails to do so by either failing to submit a required technical proposal or submitting an initial proposal that is technically unacceptable due to omission of material information, a contracting agency has no obligation to include the proposal in the competitive range and give

the offeror an opportunity to furnish the missing information. Union Natural Gas Co., B-231461, Sept. 13, 1988, 88-2 CPD ¶ 231. Consequently, we find that since Talco's failure to submit a technical proposal as required by the RFP resulted in such a gross informational deficiency, NSSC's determination to exclude Talco's offer from the competitive range was reasonable. Therefore, NSSC was not required to conduct discussions with Talco. Imagineering Sys. Corp., B-228434.2, Feb. 4, 1988, 88-1 CPD ¶ 109.

Talco also claims that it was not promptly apprised of its elimination from the competitive range at the earliest practicable time as required by FAR § 15.609(c). We disagree. Initial proposals were due on April 3, 1989. The agency then performed its initial evaluation of the 39 proposals received, after which the competitive range determination was made and approved on May 11. The agency then promptly notified Talco of its exclusion from the competitive range by letter dated May 16. In any event, even if the agency had not promptly notified Talco that it was no longer in consideration for award, the failure to do so is only procedural in nature and does not affect the validity of an otherwise properly awarded contract. Electronet Information Sys. Inc., B-233102, Jan. 24, 1989, 89-1 CPD ¶ 68.

The protest is denied.


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General Counsel